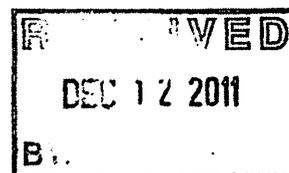




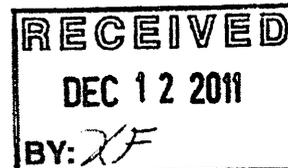
**WESTERN RESOURCE
ADVOCATES**



TRANSMITTED & FILED BY FAX TO: 307-775-6203 (hard copy by U.S. Mail)

December 9, 2011

Don Simpson, State Director
Bureau of Land Management
5353 Yellowstone Road
P.O. Box 1828
Cheyenne, WY 82003



RE: Protest of Greater sage-grouse core area parcels apparently listed for inclusion at the BLM WSO February 7, 2012 Competitive Oil & Gas Lease Sale: WY-1202-082, 083, 084, 085, 086, 120, 136, 148, 149, 150, 151, 152, 156, 157, 158, 161, 168, 169, 170, 171, 172, 173, 177, 178, 179, 189 & 193

Dear Mr. Simpson:

The Bureau of Land Management's February 7, 2012 oil and gas lease sale proposes to offer certain parcels (the "disputed parcels") comprising tens of thousands of acres of public land or mineral estate within identified Greater sage-grouse core population areas. The National Audubon Society and Audubon Wyoming ("Audubon") are concerned that the sale and subsequent development of the disputed parcels would further jeopardize the continued viability and recovery of the Greater sage-grouse and therefore request that the protested parcels be withdrawn from sale.

Audubon and Western Resource Advocates appreciate BLM's efforts to implement BLM Instruction Memorandum 2010-117 providing for improved pre-leasing review of proposed parcels, and look forward to working with BLM to further improve the leasing process going forward. We endeavored to limit the protest to core area parcels not deferred from the February sale but encountered some uncertainty regarding parcel numbers due to the re-numbering of parcels and some confusion going to the leasing documents posted on the leasing website. The intent of this protest is to request deferral of all core area parcels from the February sale.

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Specifically, in accordance with 43 C.F.R. §§ 4.450-2 and 3120.1-3, Audubon protests the sale of the disputed parcels as listed above and in the attached Audubon spreadsheet which have not yet been deferred by BLM, and are scheduled to be offered by the Wyoming BLM at the February 7, 2011 competitive oil and gas lease sale in Cheyenne, Wyoming. See Exhibit 1, Audubon Excel Spreadsheet of sale parcels located within core.

I. PROTESTING PARTIES

The National Audubon Society, founded in 1905, is a not-for-profit corporation organized under the laws of the State of New York, with its headquarters in New York. Nationwide, there are more than one million Audubon members and supporters, including approximately two thousand in Wyoming. Audubon has offices in 23 states, including a state office in Wyoming. Audubon's mission is to conserve and restore natural ecosystems, focusing on birds, other wildlife, and their habitats for the benefit of humanity and the earth's biological diversity. Audubon carries out that mission through a variety of activities, including education, habitat conservation and public policy advocacy.

Audubon's members in all parts of the state share a deep concern for the future of Wyoming's wildlife resources, especially native birds and their habitats. Audubon's state and local organizations commit significant time and resources every year to efforts to conserve and restore wild birds and habitats. Audubon's members work cooperatively with state and federal resource agencies on a range of projects that are designed to achieve a secure environmental future for birds and other wildlife and their habitats and for the people of Wyoming and the United States.

Audubon's members value the conservation, sound management, and sustainable use of the public lands comprising the Disputed Parcels, use and enjoyment of the lands in question, and frequently engage in sage-grouse viewing and hunting opportunities, and other activities that would be diminished by any further decline in the population of the species or continued destruction of sage-grouse habitat. As a consequence, Audubon and its members would be adversely affected by the sale of the Disputed Parcels.

II. BACKGROUND AND FACTS

The disputed lease parcels are entirely or partially located within the core population areas for Greater sage-grouse. See Wyoming Game and Fish Department (WGFD) Version 3 core area map at: http://gf.state.wy.us/wildlife/wildlife_management/sagegrouse/Update%20coreareas_v3.pdf. Core population areas are necessary for the protection of this candidate species and integral to conservation strategies being implemented by the State of Wyoming and BLM. See IM 2010-012 and 2010-013, EO 2010-4. The core habitat is the nesting and early brood rearing habitat for over eighty percent of the Greater sage-grouse breeding population in Wyoming. <http://gf.state.wy.us/habitat/SagebrushSageGrouse/index.asp>. The range-wide population of the Greater sage-grouse has already experienced a ninety

percent decline from historic records— ongoing and reasonably foreseeable future intrusions into sage-grouse habitat led the U.S. Fish and Wildlife Service to determine that listing of the greater sage-grouse as threatened or endangered is warranted. *See* 75 Fed. Reg. 13910-14014 (March 23, 2010).

The Sagebrush Ecosystem that defines the Intermountain West and once covered much of western North America is undergoing intense change: today less than half of the original area remains. Wyoming is the last stronghold for the sagebrush sea: over 50% of the state is covered by sagebrush, making it a critical area for the recovery and survival of the sage-grouse and health of its habitat. *See* <http://gf.state.wy.us/wildlife/nongame/LIP/Sagebrush/index.asp>. Over the past century, human activities have caused heavy sagebrush loss and the fragmentation of the remaining sagebrush ecosystems. Sage-grouse are native to the semi-arid sagebrush habitats of western North America. Previously widespread, this species has been extirpated from approximately half of its former range due to loss and degradation of sagebrush habitat.

Wyoming's sagebrush country has the highest remaining population of sage-grouse, estimated at over 34% of these birds remaining in the world. *Id.* Sage-grouse are a landscape scale species that depend on large intact sagebrush habitats for every aspect of their life cycle and use multiple seasonal habitats that must all be available to maintain healthy populations. The loss of this ecosystem is a grave threat not only to sage-grouse but also to world-class populations of mule deer, elk and pronghorn, as well as the other 296 bird species, 85 mammals and 63 fish species that depend on it for habitat and survival. Proactive conservation measures to assure the sage-grouse's future will have far-reaching benefits to other species of concern with similar habitat needs, including other sagebrush obligate species of concern.

Audubon appreciates BLM's continuing efforts to implement new Interior policies providing for greater pre-leasing analysis of proposed sale parcels, which contributed to the agency's determination that many core parcels nominated by industry will be deferred from the upcoming sale.

III. STATEMENT OF REASONS

The next 12-24 months will shape the prospects for success or failure of recovery efforts for the Greater sage-grouse. Deferring leasing in core areas in Wyoming is an urgently needed interim strategy to give the bird a fighting chance for survival. For whatever reason, past management efforts and the existing regulatory framework have failed. Stronger approaches are needed, and a conservative approach to avoiding new impacts to core areas must be part of BLM's interim strategy.

¹ The USFWS' March 23, 2010, 12-Month Findings For Petitions To List the Greater Sage-Grouse, along with the reference materials cited therein, are incorporated by reference into this protest.

The reasons for not leasing core population areas are outlined in the attached document titled, Expert Comments of Alison Holloran, Director of Science - Rocky Mountain Region, Audubon Rockies (prepared for the May 2012 BLM Wyoming lease sale).

1. BLM should defer the disputed parcels in light of new information and science regarding the Greater sage-grouse and its habitat.

On December 9, 2011, FWS published a "Notice of Intent to Prepare Environmental Impact Statements and Supplemental Environmental Impact Statements to Incorporate Greater Sage-grouse Conservation Measures into Land Use Plans and Land Management Plans". The NOI states:

In April 2010, the U.S. Fish and Wildlife Service (FWS) published its listing decision for the greater sage-grouse indicating that listing was "Warranted but Precluded" due to higher listing priorities under the Endangered Species Act. The inadequacy of regulatory mechanisms to conserve the greater sage-grouse and its habitat was identified as a significant threat in the FWS finding on the petition to list the greater sage-grouse as a threatened or endangered species.

NOI at 4 (emphasis added).

This statement makes clear that stronger regulatory protections for the sage-grouse and its habitat must be increased to avoid the need for a listing. BLM can start by deferring the disputed core area parcels from the February lease sale. Core parcels should not be leased pending completion of the pending EISs and SEISs to amend BLM Resource Management Plans regarding sage-grouse conservation.

Decisions, such as continuing to authorize leasing of core areas prior to the completion of regional conservation planning efforts, will push the species closer to a full listing and must therefore be avoided. Pending final decisions on RMP amendments and the regional planning process, BLM should proceed with caution and must improve or at least preserve the status quo of habitat conditions for sage-grouse to avoid dooming conservation efforts from the start. See attached August 27, 2011 letter to Secretary Ken Salazar, re: Conservation community's interest in range-wide conservation of Greater Sage-Grouse.

Submitted by eighteen conservation groups dedicated to sage-grouse recovery, the letter states:

As our nation's energy demands fuel the continued push for development on western lands, we are concerned that BLM field offices will continue to make decisions that could further degrade remaining sage-grouse crucial habitat. We ask that the agency follow the precautionary principle of **developing conservative interim guidelines** for all field offices that clearly specify actions that are appropriate and inappropriate in sage-grouse habitat. Furthermore, **decisions that could push the species closer to a full listing should be avoided.**

Letter at 1-2 (emphasis in original).

Another source of new information and compilation of recent science on the sage-grouse is the recently issued federal court decision remanding the Pinedale RMP for various National Environmental Policy Act and Federal Land Policy Management Act violations regarding sage-grouse management. Western Watersheds Project v. Salazar, Case No. 4:08-CV-516 BLW (D. Idaho 2011). This case supports the need to defer the disputed parcels.

Wildlife biologists and conservationists have long warned that existing regulatory mechanisms were failing to protect the sage-grouse and its habitat. Now, a federal court decision reached the same conclusion. In remanding the Pinedale RMP, the new decision found that the "principal threat to the Wyoming Basin Core population was from energy development." Slip Op. at 5. Prior to the newly issued NOI, BLM adopted its National Strategy to "respond to the potential listing of the sage grouse and demonstrate its commitment to protecting sage grouse habitat." *Id.* at 6. Pursuant to this National Strategy the "land use planning process" was to be the "primary mechanism to assure conservation strategies are implemented." *Id.* However, BLM's efforts to implement past strategies have proved inadequate.

Offering core parcels for lease prior to completing the ongoing land use planning process will limit BLM's ability to implement effective conservation strategies on those lands. BLM would maximize the efficacy of the NEPA and land use planning processes by deferring additional leasing on lands overlapping core population areas until the conclusion of that process.

Leasing the disputed parcels would undercut the land use planning process because it represents an irretrievable commitment of those resources to oil and gas development. The WWP court emphasized the following statement contained in the Western Association of Fish and Wildlife Agencies Greater Sage Grouse Conservation Assessment (CA): "The CA noted that oil and gas development caused a "direct loss of [sage grouse] habitat." Reviewing the increase in oil and gas drilling in Wyoming, the CA predicted that because 96% of all drilling permit applications are approved, "the frequency and extent of oil and gas development on sage brush ecosystems are likely to increase." Slip Op. at 5 (internal citations omitted). Instead of rolling the dice on its future ability to adequately protect habitat and avoid pushing the species towards listing, BLM should pursue the conservative course of deferring the disputed parcels.

According to WWP, two of the most authoritative sources of scientific information on the sage-grouse are the WAFWA Conservation Assessment and the research of grouse researcher Clait Braun. The court noted that "BLM points to nothing in the Administrative Record that rebuts the testimony of Dr. Braun, a leading expert on the sage grouse." Slip Op. at 31. Similarly, the EA approving the disputed parcels appears to not have referenced or analyzed either source. Deferral is appropriate to ensure that

BLM's decisions are informed by the leading scientific or biological studies and prescriptions. BLM should consider Dr. Braun's paper titled, A Blueprint for Sage-grouse Conservation and Recovery (Grouse, Inc May 2006), available online at <http://www.voiceforthewild.org/SageGrouseStudies/Braunblueprint2006.pdf>.

In Pinedale, the importance of protecting remaining core habitat was underscored by the fact at least 61% of the federal mineral estate under the jurisdiction of the Pinedale Field Office, alone, has already been leased. See Slip Op. at 8. Rather than compounding this situation elsewhere, a conservative course is warranted for the time being. Leasing in core habitat at this time may predetermine whether those lands can be managed to "provid[e] contiguous wildlife habitat and migration routes." *Id.* at 12 (quoting Pinedale EIS).

Before the newly issued NOI or the WWP decision, in late May, 2010, the Wyoming BLM published a "Notice of Intent to Prepare an Environmental Impact Statement and Resource Management Plan Amendments" for various Wyoming field offices. See 75 Fed. Reg. 30054-55 (May 28, 2010). Among other things, that Notice of Intent indicates that, "the RMP amendments will revise sage-grouse and sagebrush management direction in the existing [RMPs] to incorporate policies set forth in BLM Wyoming Instruction Memoranda (IM) 2010-012 and 2010-013. The Notice also indicates that, "the purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis, including alternatives, and guide the planning process." (emphasis added).

As noted in a media advisory, the BLM has begun that analysis and is currently working with agency cooperators on a draft EIS. See "BLM Hosts meeting to discuss sage-grouse alternatives," available online at http://www.blm.gov/wy/st/en/info/news_room/2010/november/19sage-grouse.html. One of the alternatives being considered, a so-called conservation alternative, would close core habitat areas to oil and gas leasing. A second alternative, the proposed action, would continue to allow oil and gas leasing in core area, but under stringent lease stipulations limiting both density of development and total disturbance.

In these circumstances, NEPA limits agency actions: "Until an agency issues a record of decision as provided in § 1505.2, no action concerning the proposal shall be taken which would... (2) Limit the choice of reasonable alternatives." 40 C.F.R. §1506.1. Leasing the disputed parcels with the existing lease stipulations would preclude BLM from considering: 1) the alternative of not leasing additional core areas; and 2) leasing with more stringent stipulations. In other words, leasing would leave no "decision space" for BLM to consider and implement alternatives that are currently under consideration in the RMP amendment process, a violation of 40 CFR § 1506.1. In biological terms, leasing of core areas contravenes the best available science on this species and its habitat, as well as recognized strategies to recover the species from the brink of listing and possible extinction absent more protective new management strategies.

The alternative of closing key sage-grouse habitat areas to oil and gas leasing (i.e., designating the lands administratively unavailable), is an alternative specifically recommended in BLM Washington Office guidance codified as Instruction Memorandum No. 2010-071: Gunnison and Greater Sage-grouse Management Considerations for Energy Development (Supplement to National Sage-Grouse Habitat Conservation Strategy. "In RMP revisions and amendments, analyze one or more alternatives that would exclude priority habitat from energy development and transmission projects."

Leasing the Disputed Parcels would violate 40 C.F.R. § 1506.1 because it would "limit the choice of reasonable alternatives" by precluding implementation of a "no leasing in core area" alternative or a "lease with stringent stipulations" alternative. BLM should defer the disputed parcels rather than undercut the ongoing land planning process.

2. BLM should defer the disputed parcels because it has not taken the required hard look at the potentially significant direct, indirect and cumulative impacts of leasing these core areas in addition to other threats to the sage-grouse.

The Western Watersheds Project decision noted that "the exploration and production of existing oil and gas leases could continue." *Id.* at 12 (quoting Pinedale EIS). WWP recognized that "The cumulative impacts of energy development are critical to sage grouse." Slip Op. at 31. "The BLM's own National Strategy called for a regional analysis [of the impacts of energy development], and the BLM had conducted one . . . (the "Wyoming Basin Eco-Regional Assessment"). *Id.* However, BLM did not adequately consider its own Wyoming Basin Eco-Regional Assessment, newly proposed oil and gas development adjacent to the Pinedale area, or the WAFWA Conservation Assessment. The court concluded: "For all these reasons the Court finds that the Pinedale EIS failed to conduct a proper cumulative impact analysis and hence violated NEPA." *Id.* at 32 (emphasis added).

For the instant sale, BLM should defer leasing in core areas to ensure that the cumulative impacts of developing the disputed parcels in addition to existing leases does not significantly impact the sage-grouse and its habitat.

NEPA requires BLM to take a hard look at the environmental impacts of its decisions. A fundamental principle of administrative law is that an agency must provide an explanation for its decisions and actions. Bear River Development Corporation, 157 IBLA 37 at 73 (BLM must analyze all pertinent factors and substantiate its conclusions.) BLM's existing analysis is inadequate to support BLM's decision not to defer the disputed parcels.

IV. REQUESTED RELIEF

Audubon requests that the disputed core area parcels be withdrawn from auction and managed to protect important core area habitat in accordance with 43 C.F.R. § 3120.1-3.

Respectfully submitted,



Mike Chiropolos
Lands Program Director
Western Resource Advocates
2260 Baseline Road, Suite 200
Boulder, CO 80302
303 444 1188 x 217
mike@westernresources.org
Counsel for Audubon

Attachments: as stated

Located Within Core (n=31) - PARCEL NUMBERS -

- WY-1202-120
- WY-1202-136
- WY-1202-148
- WY-1202-149
- WY-1202-150
- WY-1202-151
- WY-1202-152
- WY-1202-156
- WY-1202-157
- WY-1202-158
- WY-1202-161

NOTE = these numbers reflect the NEW numbering system

deferred
 deferred
 deferred

- WY-1202-168
- WY-1202-169
- WY-1202-170
- WY-1202-171
- WY-1202-172
- WY-1202-173

deferred

- WY-1202-177
- WY-1202-178
- WY-1202-179
- WY-1202-189
- WY-1202-193
- WY-1202-082
- WY-1202-083
- WY-1202-084
- WY-1202-085
- WY-1202-086



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Expert Comments of Alison Halloran

Director of Science – Rocky Mountain Region

Audubon Rockies

Regarding Proposed May 2012 BLM Wyoming State Office

Oil & Gas Lease Sale

As an 11-year employee of Audubon Rockies I oversee issues related to avian species in the rocky mountain region. Prior to working for Audubon, I received my Master's degree in Wildlife Management from the University of Wyoming's Cooperative Fish and Wildlife Research Unit studying the Effects of Oil and Gas Development on Greater Sage-grouse on the Pinedale Anticline. Since that time I have specialized in Sagebrush Steppe avian species management within my position with Audubon.

As set forth in our comment letter, Audubon Rockies is formally disputing the May 2012 sale of parcels within the sage-grouse core areas and we are greatly concerned about potential irreversible impacts to high profile wildlife species, most notably Greater Sage-grouse.

Overall, Audubon strongly advises that the BLM adhere to their science-based commitment, echoed in the U.S. Fish and Wildlife Service's (USFWS) 12-month Findings, to protect important sage-grouse habitat has resulted in wind development being prohibited in Wyoming's sage-grouse core areas. In addition, based on the known negative impacts that oil and gas development has on Greater Sage-grouse, and the extent of energy development in Wyoming, certain areas should also be designated as unavailable for energy development. Specifically, the May 2012 lease sale with the 144 parcels within the designated Greater Sage-grouse Core Area are unacceptable and should be withdrawn from the sale.

According to the grouse density maps the parcels for sale located just southwest of Lander, WY (includes parcels 78-155) are not only located within the designated core sage-grouse habitat but are in an area that has some of the most dense populations of Greater Sage-grouse in the state of

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Wyoming. In addition, the area which holds most of these parcels is also an Important Bird Area; designated solely on the basis of the grouse populations within the area.

It is my professional opinion that these parcels should be withdrawn from the sale due to the dense grouse populations that are known to inhabit the area. Based on scientific studies documenting the negative effects of oil and gas development has on sage-grouse, if this area and these parcels are sold and developed, the grouse populations would potentially greatly diminished and suffer immense population losses due to disturbance, habitat fragmentation and direct loss. Moreover, the areas surrounding the proposed lease sales have already been heavily developed for oil and gas (i.e. Pinedale Anticline, Jonah Field and Atlantic Rim (on-going) making the parcels for sale even more critical to the existing sage-grouse population's landscape scale use of the habitat.

Due to these overwhelming factors; established scientific evidence of the effects of oil and gas development on Greater Sage-grouse, combined with the density of grouse inhabiting in the areas for sale as well as the established development that surrounds the area, we conclude that if this area is sold and developed, it would have devastating effects on the grouse population in the state and therefore may trigger a listing by the USFWS. These parcels appear to be in an area of little leasing and may well qualify under the 11 contiguous sections ruling that states that areas of this size, if not leased should not be leased. In order to protect first our grouse populations and their habitat and second the lively hoods of the people of Wyoming, these parcels should be permanently withdrawn from oil and gas lease sales.

In addition, in my expert opinion, the parcels (# 9-20, 23-29, 31 and 33-40) also included in the May 2012 lease sales located southwest of Rawlins, Wyoming should be withdrawn from the sale. First, the parcels are again located in core sage-grouse habitat as designated by state and federal entities. Moreover, wind development to the north of the area makes these parcels even more critical to the grouse populations in the area for breeding, brood rearing and wintering.

Given the magnitude of the proposed Chokecherry and Sierra Madre Wind farm Audubon wants assurances that adjacent lands will not be available to new energy development activities, as the size and nature of this proposed project will cause considerable strain on the ability of the area's habitat to support healthy wildlife populations. Our support of a project of this size and scale, especially in high quality habitat, is subject to fulfillment of recommended improvements and assurances that adjacent lands will not be available for new energy development. Additional future projects could threaten the viability of this landscape as habitat for sensitive wildlife populations. Regarding sage-grouse, additional projects could present unacceptable risks for local populations and habitat.

The proposed development due to the sales will also put at risk not only the Wyoming grouse population but also Colorado's North Park grouse population as the area serves as a genetic connection between the two populations. If this area is developed, it will not only negatively influence the Wyoming grouse population but could also negatively impact an already greatly

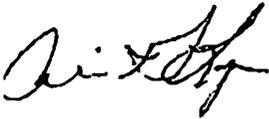
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compromised Colorado population of grouse. Any development in the area would compromise the critical habitat needed by Greater Sage-grouse (as determined by the Core Areas designation) and therefore both Wyoming and Colorado populations.

Also of great concern in any landscape committed to oil and gas development is the inevitable consequence of the colonization by invasive, non-native species. In the sagebrush-steppe community, in addition to the slow regeneration of sagebrush, the biggest threat is the invasion of cheatgrass (*Bromus tectorum*). Even assuming re-vegetation was successful, there is an increased risk of predation on ground nests by newly accommodated synanthropic predators. Raven, coyotes and other opportunistic predators will benefit from an open corridor, putting sagebrush obligate species at further risk. The introduction of aggressive fauna and flora invasive species are often linked to human disturbances, such as new roads and construction of facilities associated with these proposed parcel sales and later development.

In conclusion, regarding the application of both sale areas mentioned above, the FEIS should recognize that future energy development would be incompatible with 1) other multiple use goals, and 2) the overarching commitment of BLM and the USFWS to implementing protective management strategies designed to obviate the need for listing the grouse when its status is reconsidered in 2015. The cumulative impacts of additional operations in both areas would be unacceptable. This applies to not only oil and gas drilling but the associated infrastructure such as roads, pipelines and related infrastructure.

Sincerely,



Alison Holloran

Director of Science – Rocky Mountain Region

Audubon Rockies

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AUDUBON WYOMING * NEVADA WILDERNESS PROJECT
THE WILDERNESS SOCIETY * WYOMING OUTDOOR COUNCIL
NATIONAL WILDLIFE FEDERATION * OREGON NATURAL DESERT ASSOCIATION
THE WILD UTAH PROJECT * AUDUBON SOCIETY OF PORTLAND
NATIONAL AUDUBON SOCIETY * AUDUBON CALIFORNIA * AUDUBON COLORADO
SPOKANE AUDUBON SOCIETY * WESTERN RESOURCE ADVOCATES
ROCKY MOUNTAIN WILD * MONTANA AUDUBON * AUDUBON SOCIETY OF NEVADA
IDAHO CONSERVATION LEAGUE * COLORADO ENVIRONMENTAL COALITION

August 27, 2011

Secretary Ken Salazar
United States Secretary of the Interior
Department of the Interior
1849 C Street, N.W.
Washington DC 20240

Via U.S. Postal and email (exsec@ios.doi.gov)

Re: Conservation community's interest in range-wide conservation of Greater Sage-Grouse

Dear Secretary Salazar,

We are a consortium of conservation organizations that is interested in establishing effective, proactive management actions, long-term habitat protections and funding mechanisms that will bolster sage-grouse populations and eliminate the need to federally list this iconic species. On behalf of our organizations and our concerned members across the region, we appreciate Interior's recent efforts to coordinate resources and develop strategies for sage-grouse conservation. Two things are clear: 1) past efforts have failed to sufficiently conserve sage-grouse and their habitat, resulting in the 2010 finding that listing the Greater Sage-Grouse is "warranted but precluded"; and 2) there is an urgent need to develop and implement substantive conservation measures between now and 2015, when the U.S. Fish and Wildlife Service (USFWS) will reconsider the status of the bird.

We are encouraged by the Bureau of Land Management's (BLM) announcement of a regional strategy that focuses on the conservation of sage-grouse and the protection of their habitat. This strategy, which includes both short-term and long-term approaches, must result in the **consistent application of adequate regulatory mechanisms that are scientifically defensible**. Given the expanse of sage-grouse habitat managed by the BLM and the short timeline proposed for this regional planning effort, inconsistent application of regulatory protections within states and across the sage-grouse's range could be detrimental to sage-grouse conservation efforts.

As our nation's energy demands fuel the continued push for development on western lands, we are concerned that BLM field offices will continue to make decisions that could further degrade remaining sage-grouse crucial habitat. We ask that the agency follow the precautionary principle of **developing conservative interim guidelines** for all field offices that clearly specify actions that are appropriate and inappropriate in sage-grouse habitat. Furthermore, **decisions that could**

push the species closer to a full listing should be avoided. Pending final decisions on RMP amendments and the regional planning process, BLM *must at least preserve or improve the status quo of habitat conditions for sage-grouse* -- to avoid dooming conservation efforts from the start.

High priority areas for conservation and restoration should be designated by BLM's planning process across the range as core areas. Management actions within these core areas should focus on maintaining and enhancing grouse habitats and viable populations. However, populations that are small and isolated (such as along the periphery of their range or on seasonal habitats) must also be included in the planning process and given special management considerations.

We applaud recognition by the BLM of the urgency for rapid and meaningful, landscape scale sage-grouse conservation actions. However, effectiveness and public support should not be undermined by the urgent need for such action. The composition of the planning teams needs to be carefully considered. The National Technical team should be composed of sage-grouse and sagebrush experts, including state game and fish agency personnel, who provide recommendations based on peer-reviewed science. The Policy, Regional, and State teams *should include broad stakeholder involvement, including representatives from the conservation community*. Careful consideration of team compositions and processes used will be essential for ensuring credibility and public support. As this planning effort moves forward at a rapid pace, communication with the public will be critical. Thus, elements of a successful strategy should include 1) sustained outreach to stakeholders (including but not limited to public comment under the National Environmental Policy Act); 2) the adoption and implementation of new policies; 3) rigorous monitoring and adaptive management; and 4) enforcement. For specifics, we feel at a minimum the Department should undertake the attached guidelines (*see Appendix*) to ensure that the Greater Sage-grouse is not federally listed and adequate guidance for managers is in place.

Finally, we hope that as the BLM proceeds in its regional conservation efforts, the process will be open and transparent. We recognize that because of the large range occupied by sage-grouse, all stakeholders have an interest in seeing this effort be successful. Success will depend on BLM-wide and interagency commitments, using MOUs or other appropriate means, to ensure requisite conservation measures are adopted as federal policy. Our organizations look forward to remaining engaged and providing assistance as the BLM develops its regional sage-grouse conservation strategy.

Sincerely,

Brian Rutledge
Executive Director/ VP Intermountain West
Audubon Wyoming

On behalf of:

John Tull
Conservation Director
Nevada Wilderness Project

Nada Culver
Senior Counsel
The Wilderness Society

Mike Chiropoulos
Lands Program Director
Western Resource Advocates

Lara Rozzell
Public Lands Energy Fellow
Idaho Conservation League

Kathleen C. Zimmerman
Senior Policy Advisor II Public Lands Program
National Wildlife Federation

Kim Marie Thorburn
Board of Directors
Spokane Audubon Society

Ken Strom
Interim Executive Director
Audubon Colorado

Matt Little
Conservation Director
Oregon Natural Desert Association

Sophie Osborn
Wildlife Program Director
Wyoming Outdoor Council

Wayne Martinson
Utah Important Bird Areas Coordinator
National Audubon Society

Allison L. Jones
Conservation Biologist
The Wild Utah Project

Dan Taylor
Director of Public Policy
Audubon California

Bob Sallinger
Conservation Director
Audubon Society of Portland

Megan Mueller
Senior Conservation Biologist
Rocky Mountain Wild

Mike Daulton
Senior Director for Government Relations
National Audubon Society

Robin Wilson
Director of Bird Conservation
Audubon Society of Nevada

Steve Hoffman
Executive Director
Montana Audubon

Luke Schafer
West Slope Campaign Coordinator
Colorado Environmental Coalition

Cc:

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APPENDIX

Incorporating science-based conservation measures is a critical *first* step in conserving the necessary habitat to preclude the need to list the Greater Sage-Grouse. Goals should include *adequate minimum standards across the region and landscape scale management strategies*, which states or field offices should seek to exceed where conditions are appropriate. The following guidelines concerning management of sagebrush habitat and sage-grouse should be considered the *minimum* needed to ensure adequate regulatory mechanisms are in place -- one of the concerns specified in the USFWS' March 2010 Finding.

- The interim guidelines, programmatic EISs, and RMP amendments should ensure that each BLM field office manages sagebrush and sage-grouse in a **consistent manner**.
- The **National Technical Team**, composed of sage-grouse and sagebrush experts, **should consider existing state and federal resources and significantly improve upon these by incorporating the latest scientific information**. Understanding the failures of these well-intentioned efforts will help the BLM develop its new regional strategy, which should include range-wide prescriptions, restrictions, and stipulations developed by the national technical committee.
- **State game and fish agency personnel provide extensive local knowledge**. We encourage coordination with state agencies, which may provide the best information on local sage-grouse populations and help ensure management consistency within each state. As species managers, they should be full partners in the regional planning process and implementation.
- As planning moves forward, **sufficient funding must be secured not only to meet the immediate needs of this range-wide strategy but also to ensure long-term success**. A consistent and long-term commitment must be made to ensure species maintenance and recovery. Efforts should be focused not only on core populations, which will require monitoring to determine successes and address failures, but also on smaller critical populations located in the periphery of the range.
- **Core areas delineate high priority areas for sage-grouse conservation and restoration and thus should be designated by BLM's planning process**. The Sage-Grouse Breeding Density Map, spearheaded by the BLM, is the first cooperative federal-state-private effort that looks at sage-grouse densities in a consistent manner across the West. This tool provides a peer-reviewed, scientifically defensible foundation for important range-wide focal areas having high densities of Greater Sage-Grouse, thus allowing for the establishment of priority conservation areas range-wide.
 - **Development should be avoided in core areas, unless it can be demonstrated that the activity will not cause declines in sage-grouse populations**. Stipulations, based on best available science, should be applied as a means to minimize impacts.
 - **BLM should conduct an inventory of each core area – documenting vegetation, land ownership, existing disturbances, etc.** This knowledge is critical for establishing baseline data and enabling effective review of proposed actions.
 - **Particular sage-grouse core areas should be designated as Areas of Critical Environmental Concern (ACEC – 43 U.S.C. 1702)**. This would allow for special management to protect and prevent irreparable damage to important wildlife habitat. This type of progressive and sound management would protect high quality sage-grouse habitat, sage-grouse populations, and the several hundred other species that depend on sagebrush habitats.
- In addition to core areas, managers should concentrate on protecting **important seasonal habitat** for sage-grouse and recognize the value of **connectivity** to maintaining genetic viability. Additional effort is needed to identify these areas and to collect baseline data

(both on the species and the existing land use pressures). With compromised populations or during extreme weather conditions, these habitats become even more critical.

- **Development activities should generally be directed to already-disturbed areas (avoiding intact habitat),** in areas with the fewest environmental impacts, and be subject to science-based project design and stipulations that minimize impacts to sage-grouse. Energy development activities should be located as close to target human population centers as possible.
- **Energy Development**
 - **Identify areas not available for leasing or exclusion areas** (oil and gas leasing, wind energy development, solar, geothermal, transmission) to maintain quality habitat for sage-grouse. All alternatives except no-action should propose designating enough lands in such areas to ensure conservation of the species. Excluding priority sage-grouse habitat from energy development projects will allow land managers to take meaningful conservation actions. As recognized by IM 2010-071, the Mineral Leasing Act vests absolute discretion in the Secretary over mineral leasing decisions. The same legal authority extends to renewable energy and transmission projects
 - **Refrain from leasing inside core areas unless those leases contain appropriate, science-based stipulations that have been demonstrated to adequately protect sage-grouse populations and habitat from the impacts of development.** We are concerned that the BLM's reliance on conditions of approval (COA) as a surrogate for appropriate lease stipulations could lead to legal challenges, particularly in instances where such COAs are applied on a broad scale. We believe a more prudent approach is to defer all leasing within core habitat until the RMP amendments incorporating new science-based stipulations have been completed.
 - **Consider lease deferral for small parcels of known important sage-grouse habitat,** such as wintering habitat, breeding grounds or leks, nesting, and brood-rearing habitat. These areas can be extremely important to specific populations of sage-grouse during critical times of the year, especially if they are experiencing population pressures in surrounding areas.
 - Sagebrush landscapes, upon which sage-grouse depend, consist of few naturally occurring vertical structures. Therefore, **vertical structures (such as transmission lines, wind turbines, meteorological towers, and fences) are problematic for sage-grouse and their use should be avoided in important habitats.** Impacts to sage-grouse include *direct mortality*, from collisions and *indirect impacts*, such as avoidance of an area, habitat disruption/degradation/fragmentation, reduced nesting/breeding density, habitat loss (abandonment, unsuitability), mortality from avian and synanthropic predators (i.e., predators that live near and benefit from an association with humans), and behavioral effects. These impacts can be avoided or reduced, however, with proper siting, operation and mitigation. Important habitat, such as core areas and critical seasonal habitats, should be avoided until research on the impact of vertical structures is completed and means for effectively minimizing these impacts are identified.
 - Avoid siting new temporary meteorological (met) towers near leks and other important sage-grouse habitat. Where wind turbines or met towers are considered appropriate, guy wires should be marked with recommended bird deterrent devices.
 - **Route transmission projects to avoid priority sage-grouse habitats.**
 - **Limit the density of cumulative disturbances on the landscape to a scientifically-justifiable threshold of impacts, especially in all nesting, early brood rearing and winter habitats.**
 - **Identify areas containing large, contiguous unleased Federal minerals.** These areas, especially in important sage-grouse habitat, should remain unleased and

undeveloped. Criteria for determining size of area needed for sustaining sage-grouse populations should be based on best available science and take into account current site-specific conditions (e.g. size and movement patterns of existing sage-grouse populations, surrounding landscape pressures) and recommendations of qualified biologists.

- **Close important habitat to future leasing when existing leases in sage-grouse habitat expire.**
- **Base management on defensible and current science where leasing is permitted. Effective best management practices (BMPs) and new stipulations, based on best available science, need to be included in the amended RMPs and applied uniformly to all ground-disturbing activities across the region. Existing stipulations that have no scientific merit, such as providing only a 0.25 mile buffer around leks, should not be used. Enforceable BMPs should be applied at the initiation of projects, at the exploratory/planning stage, and throughout production.**
- **Where leasing is permitted, implement site-specific conditions of approval, that include location, design and timing of operations to avoid, minimize and mitigate impacts at all phases of development.**
- **Grazing**
 - **Facilitate and promote voluntary permit retirement range-wide and within individual RMP amendments for sage-grouse habitat areas identified as incompatible with grazing.**
 - **Where livestock-related activities occur, develop appropriate standards to maintain a healthy rangeland. Grazing management practices and/or facilities (such as fences and water development) should occur in a manner that maintains or promotes the physical and biological conditions necessary to sustain healthy sage-grouse populations. Grass banking and herd reductions should be considered in certain situations. Monitoring should allow for identification of disruption to sage-grouse populations and impacts to native vegetation and soil stability. Adaptive management should be addressed early and used to avoid negative impacts to sage-grouse populations.**
- **Fences**
 - **Carefully evaluate new fences for sage-grouse collision risks and site fences in locations away from leks, nesting areas, ridge tops etc.**
 - **Require an equal amount of fence removal if new fence is approved within sage-grouse habitat.**
 - **Identify priority areas for flagging or marking existing fences to avoid collisions and recommend the use of sage-grouse fence diverters in these areas.**
- **Climate Change**
 - **The increase of severe droughts throughout the West, associated with climate change, will exacerbate fire frequency and intensity in the sagebrush ecosystem. Managers and researchers also predict that cheatgrass and other harmful invasive species will increase, further degrading the sagebrush steppe. These threats, acting independently and synergistically, are predicted to cause a 30-80% reduction of sagebrush habitat, depending on the extent of green-house gas emissions. A warming climate will make it more challenging to restore degraded habitat and plan for habitat connectivity amongst grouse populations. Therefore, on-the-ground implications of a warming climate must be incorporated in all of the strategies used to secure a sustainable future for this species.**

- **West Nile virus**
 - West Nile Virus can have deleterious impacts on small and isolated populations of sage-grouse. **Limit man-made water developments** in mosquito breeding areas in sage-grouse habitat. Where this cannot be avoided, design water developments to inhibit growth of mosquitoes by reducing shallow stagnant water, sedimentation and vegetation growth. Focus on controlling mosquito populations in close proximity to sage-grouse leks rather than endorsing a broad use of adulticides.
- **Invasive species**
 - **Invasive species** are problematic for both native species and domestic livestock. The biggest threat to the sagebrush-steppe community, in addition to the slow regeneration of sagebrush, is the invasion of cheatgrass (*Bromus tectorum*). Cheatgrass has the potential to completely alter the ecosystem it invades, increase fire frequency, and prevent the establishment of sagebrush and native grass and forb understory. Activities that introduce and spread invasive species must be addressed and mitigated. Additionally, projects that use other non-natives such as crested wheatgrass to control faster-spreading species such as cheatgrass and medusahead, must be conducted very carefully and have long-term plans in place for eventual sagebrush and native grass restoration.
- **Fire**
 - The presence of fire on the landscape has a large impact on the probability of lek abandonment (Knick and Hanser 2009). Managers who use fire as a treatment for juniper control, invasive species and overall ecosystem health will need to have standards in place to determine where and when different types of fire management, such as broadcast burning, jackpot burning, spot treatments, are and are not appropriate in sage grouse habitat.
- **Project Analysis**
 - For the purpose of effects analysis for a proposed action, a sage-grouse habitat evaluation shall extend, at minimum, out to 4 miles from relatively small individual proposed actions and shall extend, at minimum, out 11 miles from the project boundary for large-scale proposed actions. This reflects the most current research that shows impacts to Greater Sage-Grouse leks from energy development are discernable out to a minimum of four miles (Holloran 2005, Walker et al. 2007, Walker 2008) and that 11 miles encompasses a significant portion of the seasonal habitats that will be affected. However, the scale of annual habitat needed is likely to be site dependent. Given that these data were based on research conducted in Wyoming, the area may need to be adjusted for site-specific conditions.
 - BLM should have a **standard review process for parcels proposed for development** (including fossil fuel, renewable, transmission, livestock management, water development), thus providing upfront clarity and certainty for all stakeholders. The process should incorporate: 1) participation by qualified sage-grouse biologists; 2) site-specific analysis including field visits to inform decisions; 3) projects impacting core areas should be postponed until the necessary stipulations can be added to the RMP governing the area.
 - **Comprehensive cumulative impact analysis will be key to sage-grouse conservation in the face of multiple threats.** Management decisions should be based on an evaluation of cumulative impacts *over a landscape*. Not only does this refer to the many types of energy development but also to other land use pressures, including efforts to manage other species/suppress undesirables. An example includes spraying diflubenzuron, carbaryl, and possibly malathion on sage-grouse habitat for grasshopper/mormon cricket suppression. This particular action leads to

wide scale reduction in insect numbers, an important food source for juvenile sage-grouse, thus leading to negative population level impacts.

- **Habitat Improvement, Reclamation and Restoration**

- Sage-grouse populations are dependent upon healthy sagebrush. So called "**habitat improvement**" projects (e.g. mechanical sagebrush treatments) can be detrimental to sagebrush obligate species, such as sage-grouse. Scientifically defensible research is needed to **determine which activities are beneficial**. This information should be *maintained in a single database*.
- Reclaiming or recovering sagebrush habitats is extremely challenging. Efforts should be directed towards **improving our ability to effectively reclaim degraded habitat**, which requires gathering site-specific baseline (pre-treatment) data to adequately evaluate success. **Reclamation should be mandatory** and managers must recognize that **methods for achieving success vary by region and are site-specific**. Reclamation efforts should be *monitored* and *results maintained in a single database* to improve our understanding and effectiveness. In addition, a process should be established to identify and address failed reclamation projects.
- As the large landscapes required to sustain grouse populations become further fragmented by the **increasing frequency of wildfires**, **focus on restoration will become more important**. Sage-grouse have evolved in habitat that has extremely infrequent wildfires, enabling them to benefit from mature sagebrush stands. Habitat fragmentation and alteration due to fire may influence distribution (including lek abandonment) or migratory patterns. We suggest that a funded program be dedicated to identifying sagebrush landscapes at risk and that field offices be prepared with a response plan to avoid the conversion of compromised landscapes to invasive species following fires.

- **Mitigation**

- **Mitigation**, to be meaningful in sage-grouse habitat, *must* create a *net increase* in sage-grouse habitat and be a *net benefit* to the local population.

- **Federal Ownership**

- BLM should set forth a policy to retain important (core and non-core) **sage-grouse habitat in federal ownership**.

- **Terminology**

- We urge BLM to develop a **formal set of definitions** for frequently used language to avoid inconsistent use of terminology, such as "suitable habitat" and "functional habitat." A glossary of terms, to be used throughout the interim guidelines and planning process, would help to ensure a uniform understanding of expected outcomes. Furthermore, we suggest BLM establish a general policy that if a parcel is located within a designated core area, it is presumed to contain (or be within) suitable sage-grouse habitat.

- **Monitoring and Adaptive Management**

- Implementation of an effective monitoring and adaptive management process with performance based standards for each RMP is critical to the success of this effort. In addition to developing management prescriptions for sage-grouse, the technical committee should recommend triggers for adaptive management throughout the range and clearly specify the consequences that will result if triggers are reached. Triggers could include sage-grouse population target ranges, target levels of survival and recruitment in particular areas, measures of the cumulative level of surface disturbance and well density in core areas etc. Consequences that would result if triggers are reached would include increases in protective measures. Monitoring should be required and adequately funded.